

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Ronnie Loschiavo, et al.,

Plaintiffs,

Case No. 2:21-cv-5069

v.

Judge Michael H. Watson

Advanced Drainage Systems, Inc.,

Magistrate Judge Vascura

Defendant.

OPINION AND ORDER

Defendant moves to strike notices of consents to join, ECF Nos. 24 and 25 (the “Notices”). See Mot., ECF No. 27. Defendant also moves for the attorney’s fees associated with their briefing on the motion to strike. *Id.* Defendant argues the Notices are improper because the putative collective members contained therein are from outside the geographic limits of the order on conditional certification. *Id.*

Following the filing of Defendant’s motion, Plaintiffs withdrew the Notices. See Notice of Withdrawal, ECF No. 33. Accordingly, as to the motion to strike, Defendant’s motion is **DENIED AS MOOT**.

As to attorney’s fees, they are unwarranted here. Based on Plaintiffs’ representations and the Court’s own review of the docket, it seems that Plaintiffs filed the Notices within days of their motion for reconsideration on the Order of conditional certification. See ECF Nos. 23, 24, & 25. Had the Court granted the

motion for reconsideration and expanded the geographic scope of the collective, the putative collective members in the Notices may have been properly joined. So, although possibly premature and ultimately unsuccessful, Plaintiffs' filing of the Notices was not so frivolous as to merit sanctions. *Cf. Keene v. Rossi*, No. CV 15-10977, 2015 WL 13742444, at *16 (E.D. Mich. Nov. 30, 2015) (considering sanctions under Federal Rule of Civil Procedure 11 and concluding that, although the plaintiff's claims failed to state a claim upon which relief could be granted, they were "not so frivolous as to warrant sanctions").

Further, to the extent Defendant seeks sanctions under Rule 11, it does not appear that it has followed the procedural requirements of that Rule. See Fed. R. Civ. P. 11(c)(2). Specifically, it seems Defendant did not move for sanctions in a separate motion and Defendant did not make any representations that it served its motion on Plaintiffs before filing the same on the docket. *Id.* Under the circumstances of the case, the Court finds attorney's fees are not justified here, and that portion of Defendant's motion is **DENIED**.

For these reasons, Defendant's motion is **DENIED**. The Clerk is **DIRECTED** to terminate ECF No. 27.

IT IS SO ORDERED.


MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT